



RIGHTS STUFF

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Accommodating Employee's Religious Needs

Latice Porter began working for the records division of the Chicago Police Department in 1991. She works in the Field Services Section (FSS) at the auto desk, where employees process information about stolen, towed or repossessed cars. The FSS operates 24 hours a day, seven days a week. Employees are divided into what the department calls watches, essentially first, second and third shifts. They also are assigned to groups for their days off; some get Fridays and Saturdays off, some get Saturdays and Sundays and some get other days off.

Porter identifies herself as a Christian and wanted to attend Sunday church services as well as services every Friday night, Wednesday night Bible study and prayer services on Tuesday. In 2005, she was assigned to the Friday and Saturday day off group. She asked to be reassigned to the Sunday/Monday day-off group so she could go to church and sing in the church choir. Her request was granted. Later that year, she asked to be assigned to a later shift so that she could attend classes as a student minister. That request was granted as well.

She was on medical leave from October, 2005 until July, 2006. When she returned, she was assigned to the Friday/Saturday day-off group to accommodate the

division's operational needs and to balance the work force - too many employees were in the Sunday/Monday day-off group. The person making this assignment did not know that Porter had been given Sundays off in the past to accommodate her religious beliefs.

Porter asked to be reassigned to the Sunday/Monday day-off group so she could go to church. The division asked if anyone wanted to switch shifts with her; no one did. Her supervisor suggested that she could work a later shift on Sundays so she could go to church, but she did not follow up on that option. So her supervisor told her that she would be assigned her preferred shift if an opening became available.

Porter claimed that she was intimidated and harassed by her supervisors when she returned from medical leave. She said that supervisors yelled at her and taunted her by calling her "church girl." They threatened to write her up for coming to work on a day she was scheduled to be off. She missed 34 days of work in four months; 16 of these days were Sundays. The division met with her to try to improve her performance. She said her absences were not intentional and that she missed Sundays because

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BHRC
PO BOX 100
Bloomington IN
47402
349.3429
human.rights@
bloomington.in.gov



Housing Discrimination Persists, According to Recent Study

The U.S. Housing and Urban Development Department (HUD) recently commissioned a study and found evidence that discrimination in housing still exists, albeit in more subtle forms than in the past.

To examine the issue, HUD sent out 8000 pairs of testers. Each pair of testers was made up of one white person and one tester who was a member of a minority group. Each pair of testers was of the same sex and of similar financial backgrounds. In more than half of the cases, both testers in a pair were shown the same number of apartments or homes. But in cases where one tester was shown more houses or apartments than the other, the white tester was usually favored.

According to the New York Times, in one test, a white customer looking for a two-

bedroom apartment was shown a two-bedroom apartment and a one-bedroom apartment, and given applications for both. A matched Hispanic tester who showed up only two hours later was told that no units were available. In another test, a real estate agent refused to meet with an African American tester because he was not pre-qualified for a loan. But she made an appointment to meet with a white tester without asking him if he was pre-qualified.

HUD says that overall, African American prospective renters were presented 11 percent fewer rentals than whites, Hispanics 12 percent fewer rentals and Asians 10 percent fewer rentals. Prospective African American buyers were presented 17 percent fewer homes than whites and Asians were presented with 5 percent fewer homes. Hispanics were shown about the same number of

homes as whites.

The study also showed that whites overall were frequently offered lower rates and were told that deposits and move-in costs were negotiable more often than the minority testers.

The testing was done in 28 metropolitan areas and found no significant differences in different regions.

(Article based on "Discrimination in Housing Against Nonwhites Persists Quietly, U.S. Study Finds," by Shaila Dewan, New York Times, June 12, 2013, page B3.)



Dillard's Agrees to Pay \$2 Million to Settle Discrimination Complaint

The U.S. Equal Employment Opportunity Commission (EEOC) announced that it had reached a settlement with Dillard's, a national retail chain with about 300 stores in 29 states. The EEOC sued Dillard's in 2008.

According to the lawsuit, Dillard's would not approve sick leave for employees unless they disclosed personal and confidential medical information explaining why they needed to be off work. The employees did provide medical certi-

fication that their absences were due to medical reasons, but did not want to disclose the specifics of their conditions to their employers. The Americans with Disabilities Act (ADA) says that employers may not inquire about employees' disabilities unless doing so is job-related and necessary for the conduct of their business. The EEOC said that Dillard's requirement was a clear violation of the ADA.

The EEOC also said that Dillard's enforced a questionable maxi-

mum-leave policy and refused to engage in the legally-required interactive process to see if additional leave was required as a reasonable accommodation under the ADA.

Under the terms of the settlement, Dillard's will pay \$2 million into a fund for victims of discrimination, hire a consultant to review and revise its policies, post documentation about the settlement, train its supervisors and staff about the ADA and submit annual reports to the EEOC.



Accommodating Employee's Religious Needs

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her chest hurt after working five days.

She sued, alleging discrimination in employment on the basis of religion, and lost.

The Court said that employers have to offer reasonable accommodations for employees so that they may meet their religious needs. The division offered to have Porter work the second shift on Sunday, which she admitted would have allowed her to attend Sunday morning services. She said the division merely mentioned this as a possibility but didn't invite her to make such a formal request or tell her how to do it. The Court said that it was clear that Porter knew how to make scheduling requests. The division was required to offer her an accommodation that would meet her reli-

gious needs if doing so was reasonable, and it did. It did not have to offer her the specific accommodation she requested.

Porter argued that being placed in the Friday/Saturday day-off group when she returned from medical leave and being counseled (not reprimanded) for missing work were adverse employment actions. But the Court said that schedule changes and reprimands without material consequences are rarely adverse employment actions. Her job duties did not change and her pay did not change.

She also argued that she had been subjected to a hostile work environment. The Court said that even if she could show that she had been subjected to unwelcomed behavior - the "church girl" comment, the counseling session for missing

work - this behavior was not severe or pervasive enough to create an illegal hostile work environment.

And Porter argued that the division retaliated against her for having requested Sundays off for religious purposes before she went on medical leave by denying her that schedule when she returned to work. The Court noted that almost a year had passed between her original request and her reassignment, so it would be hard for a jury to find a causal connection between the two. In addition, the supervisor who scheduled her to work on Sundays after her leave did not know about her earlier accommodation request.

The case is Porter v. City of Chicago, 2012 WL 5439894 (7th Cir. 2012).

EEOC Settles GINA Lawsuit

GINA stands for the Genetic Information Nondiscrimination Act. The law was enacted in 2008 and makes it illegal for employers with 15 or more employees to discriminate against employees or applicants on the basis of their genetic information. Under GINA, covered employers may not ask about an individual's genetic tests, the genetic tests of family members or the manifestation of diseases or disorders in the individual's family, with some exceptions.

The Equal Employment Opportunity Commission, (EEOC) the federal agency that enforces GINA, recently announced its first settlement in a GINA lawsuit. The EEOC said that Fabricut, Inc., an Oklahoma company, had violated GINA by asking an applicant about her family medical history, including the existence of heart disease, cancer, diabetes, arthritis and mental illness, as part of a mandatory post-offer medical exam. The EEOC also charged Fabricut

with violating the Americans with Disabilities Act when it refused to hire the applicant because she had carpal tunnel syndrome. Under the terms of the settlement, Fabricut will pay \$50,000 to the plaintiff and will take actions to prevent future discrimination.

If you have questions about fair employment laws, please contact the BHRC.



Airport Services Company Settles Sexual Harassment Complaints

Pacific Airport Services, Inc. offers technical operations, security, cleaning and passenger services to airlines operating in Saipan.

(Saipan is an island in the western Pacific Ocean and is an unincorporated territory of the United States.) Female customer service agents working for Pacific complained that they had been harassed by a male supervisor and filed a complaint with the Equal Employment Opportunity Commission (EEOC). The EEOC recently announced a settlement in the matter.

According to the complaint, the supervisor continuously subjected the women to sexual comments and advances, asking the women to perform sexual acts.

He grabbed the women, fondled their posteriors and placed his pelvic area in front of one of the women. He allegedly requested oral sex from one of the agents.

When the women complained internally, Pacific Airport Services did not adequately discipline the supervisor. He remained a supervisor. One of the women said she was forced to resign to avoid the continued harassment.

Under the terms of the settlement that was announced in July, Pacific Airport Services will pay the victims \$65,000. It will also revise and distribute its policy on sex discrimination and sexual harassment, hire an equal employ-

ment opportunity consultant, conduct anti-harassment training for all employees every year and create a centralized tracking system to monitor internal complaints of discrimination, harassment and retaliation.

Timothy Riera, director of the EEOC's Honolulu local office which oversees Saipan, said "Employers are responsible for maintaining a harassment-free environment for their employees. Those who have a well-distributed policy against sexual harassment, train employees on the policy and employ staff who are able to effectively investigate complaints will go a long way toward preventing such abuses on the job."



The BHRC participated in the 4th of July parade with the theme "Celebrate the Red, White and Blue."